



Fact Sheet on DNR's New Air Construction Permitting Exemption for Small Units

The purpose of this fact sheet is to explain a new exemption from the requirement to obtain an air construction permit. Unless covered by this exemption or another exemption specified in 567 Iowa Administrative Code (IAC) 22.1(2), stationary air pollutant emitting equipment constructed or modified after September 23, 1970 (April 22, 1987 for volatile organic compound (VOC) only emitting equipment), are required to obtain an air construction permit prior to construction or modification. This is true for all stationary equipment with air pollutant emissions that could be reasonably captured and vented to the atmosphere through a stack, chimney, vent, or other functionally equivalent opening. EPA has not defined what is considered “reasonable” regarding the capturing and venting of emissions. Through application, however, the definition of reasonable is usually based on whether emissions from similar equipment at other facilities are being captured and vented through a stack or vent. If you are uncertain about the permitting requirements for stationary equipment located at your facility, please contact 1-877-AIR-IOWA for assistance.

How was the exemption developed?

This exemption was developed jointly by the DNR, the U.S. Environmental Protection Agency (EPA) and representatives of the Iowa Association of Business and Industry (ABI). The goal of all parties was to reduce the regulatory burden on industry while at the same time ensuring that human health and welfare are still protected. The emission units that could be subject to the exemptions are likely to have little or no environmental or human health consequences.

What does the small unit exemption cover?

The small unit exemption may be used for emission units and associated control equipment (if applicable) that emit less than the small unit thresholds (specified in 567 IAC 22.1(2)w(1)) on a 12-month rolling total basis. The emission thresholds are:

- 5 tons per year of sulfur dioxide
- 5 tons per year of nitrogen oxides
- 5 tons per year of volatile organic compounds
- 5 tons per year of carbon monoxide
- 5 tons per year of particulate matter
- 5 tons per year of hazardous air pollutants
- 2.5 tons per year of PM-10
- 40 pounds per year of lead and lead compounds expressed as lead

What is an emission unit?

An emission unit means any activity or part of an activity at a facility that emits or has the potential to emit any pollutant subject to regulation under the Clean Air Act.

Who can use this exemption? Can Title V sources use it?

Any facility may use the exemption provided that the emission units are not subject to federal air requirements, such as National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, etc. Call this toll-free number, 1-877-AIR IOWA (1-877-247-4692), for help with a determination.

Title V sources can use the exemption. However, the provisions of this exemption will not be federally enforceable until the EPA has adopted the exemption into the Iowa state implementation plan. To confirm the EPA adoption status, please contact a member of the Air Quality Bureau planning unit at (515) 242-5167.

Can I use this exemption for existing emission units?

Yes, the exemption can be used for existing, non-permitted emission units that emit less than the small unit emissions thresholds specified in the exemption.

Can I use this exemption for emission units that have emissions that vent through a permitted emission point?

No. If the emissions from a small unit vent to the atmosphere through an emission point that is permitted, then the small unit emissions have to be included with the permitted emissions from the emission point.

What if I have an existing permit for an emission unit that now qualifies for the exemption?

The existing permit will remain in effect. The DNR will not nullify an existing permit for the purpose of allowing the emission unit to be covered by this exemption.

If I use the exemption now can I still get a permit in the future?

Yes, DNR will issue a permit for the emission point associated with the emission unit if the owner or operator of the emission unit submits an air construction permit application to the DNR.

Do I have to complete any paperwork to use the small unit exemption?

The owner or operator must maintain an exemption justification document on site for each emission unit or group of similar emission units that the exemption is being applied to. The exemption justification document contains the information that documents how the emission units are operated so that the emission thresholds that define a small unit are not exceeded.

What information do I have to include in the exemption justification document?

The exemption specifies the minimum information that must be included in the exemption justification document (567 IAC 22.1(2)(w)(3)). Some of the required information includes:

1. A description of all production limits required to comply with the exemption thresholds, and
2. Detailed calculations of emissions, records of actual operation that demonstrate that the exemption thresholds are not being exceeded, and
3. A certification from the responsible official that the exemption thresholds are not being exceeded for the emission unit or group of similar units in question, and
4. Records of actual operation that demonstrate that the annual emissions from the emission unit or group of similar emission units were maintained below the applicable exemption levels shall be based on a 12-month rolling average.

Additionally, all records demonstrating compliance with the exemption justification document should be retained for five years at facilities designated as a major source.

What is the point of having an exemption justification document?

The exemption justification document is like a permit that the owner or operator writes for the facility stating how the emission unit or group of similar emission units will be maintained and operated to remain below the small unit emissions thresholds. The controls and resulting emission rates specified in the exemption justification document establish a limit on the potential emissions for that emission unit or group of similar emission units. This allows the controls and limits specified in the exemption justification document to be federally enforceable, which means that credit could be taken for use of the controls or limits in applicability determinations for programs such as Title V or Prevention of Significant Deterioration.

Is there a specific format that the exemption justification document has to follow?

There is not a specific format that has to be used for an exemption justification document. The intent of not specifying a format is to allow facilities flexibility to create exemption justification documents that best suit their needs and capabilities. The only requirement is that the exemption justification documents contain the minimum amount of information specified in the exemption. The department has developed an exemption justification document template that may be used by facilities as a model to develop their own exemption justification documents.

Does DNR have to review the exemption justification document before it can be used?

No. However, exemption justification documents must be submitted to the DNR upon request. Additionally, exemption justification documents must be made available to state or EPA inspectors at the facility upon request during normal business hours.

What if I have unpermitted emission units that meet the small unit thresholds but I do not complete the exemption justification documents for them?

If the owner or operator is claiming that an emission unit is subject to the small unit exemption but does not complete the exemption justification document for the emission unit, then the applicability of the small unit exemption will be voided for that emission unit. An air construction permit application will then have to be submitted for the emission unit in question.

What if I claim a small unit exemption for an emission unit and it is later discovered that the emission unit is exceeding the small unit thresholds?

If the DNR believes the emission unit is exceeding the emission thresholds that define a small unit the DNR will notify the owner or operator of the emission unit in writing and provide supporting documentation. The owner or operator will have up to 60 days to respond to the DNR with information to substantiate a claim of applicability to the small unit exemption. If the owner or operator is unable to substantiate the claim to the DNR's satisfaction, then the owner or operator will have to apply for an air construction permit for the emission unit or cease using the emission unit in question within 90 days of notification by the DNR. The emission unit may continue to be operated during the 90 day period and the initial application review period.

Are any notifications to DNR required before I start using this exemption?

No notification of use of the exemption is required unless the emissions from an emission unit will exceed the substantial small unit thresholds specified in the exemption. A substantial small unit is a small unit that emits one or more pollutants at levels that exceed (based on a 12-month rolling total) 3.75 tons per year of sulfur dioxide, nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, or hazardous air pollutants, or 1.875 tons per year of PM-10, or 30 pounds per year of lead and lead compounds expressed as lead. The DNR shall be notified at least 10 days prior to commencing construction of any new or modified substantial unit and within 30 days after determining that an existing small unit meets the substantial small unit thresholds.

Are any notifications to DNR required after I start using this exemption?

An owner or operator is required to notify the DNR within 90 days of the end of the calendar year if the combined emissions of one or more pollutants from all substantial small units at the facility will meet or exceed any of the cumulative notice thresholds. It is possible that emissions from several substantial small units could interact at one or more off property locations and result in exceedances of an ambient air quality standard. To minimize this possibility, the owner or operator must apply for air construction permits for all substantial small units for which the cumulative notice threshold for the pollutant(s) in question has been reached. This will allow the DNR to perform engineering evaluations of the emissions and controls (if applicable) and evaluate the possible air quality impacts. Air construction permits must

be submitted by 90 days from the date that it is determined that the cumulative notice threshold has been reached. A letter must be submitted to DNR within five days of making this determination. The letter shall establish the date that the owner or operator determined that the cumulative notice threshold had been reached.

What are the levels of the cumulative notice thresholds?

The cumulative notice threshold levels are:

- 40 tons per year of sulfur dioxide
- 40 tons per year of nitrogen oxides
- 40 tons per year of volatile organic compounds
- 100 tons per year of carbon monoxide
- 25 tons per year of particulate matter
- 10 tons per year of any hazardous air pollutant
- 25 tons per year of any combination of hazardous air pollutants
- 15 tons per year of PM-10
- 0.6 tons per year of lead and lead compounds expressed as lead

(The cumulative notice thresholds are specified in 567 IAC 22.1(2)"w"(8).)

Is the use of the exemption voided for future substantial small units once a cumulative notice threshold has been reached?

No. Once the substantial small units that in combination are meeting or exceeding one or more cumulative notice thresholds are permitted, the substantial small unit "slate" is wiped clean. New or modified substantial small units could then be added to the facility until the cumulative notice threshold is again reached. The steps described above would then be followed regarding DNR notification and permitting. If emissions from the previously permitted substantial small units were determined to result in predicted impacts that threaten the applicable national ambient air quality standards, then the facility will coordinate with DNR to ensure that the addition of future substantial small units will not result in predicted ambient air quality exceedances before the cumulative notice threshold is reached.

Does this exemption apply to other air permitting requirements?

No. Owners and operators are still obligated to determine whether other air permitting requirements still apply to the small units and to meet these obligations as applicable. For example, if a facility has two small units that each emit 4.5 tons of xylene (a hazardous air pollutant), and plans on adding another small unit that would emit two tons of xylene, then a hazardous air pollutant standard may be triggered

Are emission units covered under the small unit exemption considered "insignificant activities" for Title V purposes?

Yes, if they meet the criteria listed in 567 IAC 22.103. The small unit thresholds and the Title V "insignificant activity" thresholds are the same, with the exception of the thresholds for hazardous air pollutants (HAPs) (see 567 IAC 22.103(2)"a"). Also, note that since the exemption justification document is an enforceable document, emission units covered under the small unit exemption will need to be identified by the facility and will be noted in the Title V operating permit.

Do emissions from the emission units covered under the small unit exemption have to be included on the Form EI (Plant Emissions Inventory)?

Like other exemptions, emissions from all emission units that utilize the small unit exemption must be included on the Form EI when completing a permit application for emission units that will be permitted at the facility.

Where can I find a list of all exemptions?

Exemptions are listed in subrule 22.1(2) of 567 Iowa Administrative Code. The administrative rules are easily accessed on the Internet at <http://www.legis.state.ia.us/IAC.html> or can be obtained at the DNR records center. Go to 567 (Environmental Protection Division) and to Chapter 22. The exemptions are listed at the beginning of the chapter.

Policies and statements in this publication are intended solely as guidance, cannot be used to bind the agency, and are not a substitute for reading applicable statutes and rules.